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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/718,565 | 11/24/2003 | Robert D. Piwko JR. | 0621.0449C | 1886 |
| 27896 | 7590 | 10/20/2006 | EXAMINER | |
| EDEL, SHAPIRO & FINNAN, LLC 1901 RESEARCH BOULEVARD SUITE 400 ROCKVILLE, MD 20850 | | | ABRAHAM, TANIA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3636 | |

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/718,565 | PIWKO ET AL. | |
| | Examiner | Art Unit | |
| | Tania Abraham | 3636 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-15,17-23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-15,17-23 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The finality of the previous Office action (mailed 6/19/2006) is hereby withdrawn.

Applicant's amendment after final received on 9/19/2006 has been entered.

2. Upon further consideration, the indicated allowability of claim 2 (presently canceled with its subject matter incorporated into claim 1), 4, 5, 8, 11-15, 17-20, and claim 24 (presently canceled with its subject matter incorporated into claim 21) are withdrawn. Rejections based on Chernivsky and Fearon et al follow.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 21-23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Chernivsky [US 3017220]. Chernivsky (fig. 1-3) discloses structure as claimed including:

- A backrest frame 12 that is U-shaped, where the bend of the “U” slants rearward with respect to the plane shared by a section 52 of its side members
- Legs 26 connected to the backrest frame that each bend away from the center of the child seat

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- A support frame 10 that is generally U-shaped and connected to the legs, and
- A horizontal frame 40 that is attached to the backrest frame and serves to carry the bottom of the fabric seat 34.

Giving claims 1 and 21 their broadest reasonable interpretation, the limitation "approximately 30°" encompasses the angle formed between the planes of the side member section 52 and the upper portion of the backrest frame that slants rearward.

5. Claims 11-15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Fearon et al [US 5951360]. Fearon et al (fig. 1-5) discloses structure as claimed including:

- a mobile having fixtures 50 configured to resemble animals or the like
- a switch 130 for selecting different modes of operation
- a switch 130 for activating the power source

The mobile indicates that the device is operating in the "on" mode by continuous and synchronous rotation of the fixtures and music playing. When changed to "motion" mode, the synchronous rotation and music playing is activated only when motion from an infant is detected. Also included is a "sound" mode which is indicated when the mobile rotates only in response to sound from the infant, control panels 90,105 for selecting multiple modes of music playing with accompanying displays 95,105 for indicating particular modes of play. The mobile has one appearance of continuous movement accompanied by continuous auditory output. The mobile has another appearance of intermittent movement accompanied by intermittent auditory output.

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Each fixture 50 of the mobile consists of a set of indicia configured to mimic animals and other objects. The intermittent movement of the mobile provides for a fixture to be moved into a position to be viewed by an infant, and then moved out of position while another fixture moves into position to be viewed by an infant.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 3-5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chernivsky in view of Fearon et al. Chernivsky discloses structure previously outlined except having an entertainment device attached to the child seat. Fearon et al (fig. 1-5) teaches attaching a musical mobile to a child supporting apparatus (col. 3 paragraph 5). Fearon et al's mobile discloses structure previously detailed including a

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power switch, a mode selection switch and mobile fixtures operable to indicate various modes. It would have been obvious at the time of invention to one skilled in the art to modify Chernivsky's seat with respect to the teaching of Fearon et al in order to improve a child's environment.

9. Claims 18-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Fearon et al in view of Chernivsky. Fearon et al discloses structure previously described with the exception of attaching their mobile to a seat. Fearon et al does teach that their mobile can be attached to other locations (col. 3 paragraph 5) which would include other infant supporting structures. Chernivsky discloses an infant chair previously described. It would have been obvious to adapt Fearon et al's mobile to Chernivsky's seat, as suggested by Fearon et al, to one skilled in the art at the time of invention in order to improve an infant's environment.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TA


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